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SEP 14 2006

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FILED
Clerk
District Court

OCT 19 2006

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

YOUNG JU KWON,

Defendant - Appellant.

No. 06-10020

For The Northern Mariana Islands
By _____
(Deputy Clerk)

D.C. No. CR-04-00036-ARM

MEMORANDUM*

Appeal from the United States District Court
for the District of the Northern Mariana Islands
Alex R. Munson, Chief District Judge, Presiding

Submitted September 11, 2006**

Before: PREGERSON, T.G. NELSON, and GRABER, Circuit Judges.

Federal prisoner Young Ju Kwon appeals from the 63-month sentence imposed following a guilty plea to one count of conspiracy to possess with intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a) and 846. We

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Kwon contends that the district court erred by imposing a sentence without conducting a full evaluation of his “substantial assistance,” and by erroneously believing that this assistance could be evaluated at a later time through a Fed. R. Crim. P. 35(b) motion. We disagree. Kwon received a three-level downward departure pursuant to United States Sentencing Guidelines § 5K1.1 for substantial assistance. The government’s § 5K1.1 motion was based upon the entirety of Kwon’s assistance prior to sentencing. The district court and the government correctly noted that any post-sentencing assistance provided by Kwon could be addressed by a motion pursuant to Fed. R. Crim. P. 35(b). *See United States v. Quach*, 302 F.3d 1096, 1102 (9th Cir. 2002). Accordingly, the record was complete and the district court properly imposed the sentence. *See United States v. Awad*, 371 F.3d 583, 590 (9th Cir. 2004) (“[I]f the government elects to make a § 5K1.1 motion, the court must simply insist that the motion be based upon an evaluation of the assistance that has been rendered by the defendant up to the time of sentencing.”).

AFFIRMED.